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Moreover, when one considers the entire context of the written description, it is clear that the remote signaling device 24 would only be programmed once. Paragraphs 20-23 describe a procedure where a remote signaling device is made, tested and then programmed to provide any necessary correction. A vehicle owner is not going to continuously reprogram their key fob in order to gain access to their vehicle, for example. Before the signaling device 24 is provided to a vehicle owner, the programming with the correction factor is already accomplished and, therefore, is used for all subsequent signal transmissions. The disclosure encompasses situations where a single correction factor will be used for the entire service life of the signaling device 24.

Applicant respectfully submits that one of skill in the art would immediately understand how the written description supports the pending claim language.

Applicant respectfully traverses the rejection under 35 U.S.C. §102 of claims 1-7 and 19 based upon the *Moore* reference. Applicant respectfully disagrees with the Examiner's interpretation of claim 1. The claim requires determining *a* correction factor and causing the microprocessor to utilize *the* correction factor in *all* subsequent signal transmissions. The claim therefore has only one correction factor used for all subsequent signal transmissions.

The *Moore* reference, on the other hand, continuously recalibrates the carrier frequency of the portable communication unit 108 based upon determinations made by the base communication unit 104. There is no single correction factor in *Moore* used for all subsequent communications. Instead, each time a call is initiated, the base unit of the *Moore* reference determines a new frequency correction factor.

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Column 9, lines 54-68 of the *Moore* reference do not support the Examiner's position. Reading the prior portion of that column, it is clear that the frequency correction factor 326 is only temporarily stored in the RAM 324. The received frequency correction factor 434 is based upon the correction factor 326 and as that is only temporarily used, it cannot be used for all subsequent signal transmissions.

Further, claim 2 is not anticipated because *Moore* never includes programming a microprocessor to alter the timing of signal generation. At best, the *Moore* reference uses a frequency correction factor for recalibrating the carrier frequency based upon a received correction factor 434. See, e.g., column 9, lines 56-62. The *Moore* reference does not teach programming a microprocessor as recited in claim 2.

With regard to claim 3, there is no mention or use of a duty cycle in the *Moore* reference. Therefore, claim 3 cannot be anticipated for this additional reason. At best, the *Moore* reference uses a spectral distribution of signal magnitude when attempting to determine the frequency correction factor of the *Moore* reference. That is not the same as considering a duty cycle and, therefore, the duty cycle is nowhere considered within the *Moore* reference. There is no anticipation.

Claim 4 cannot be anticipated for the same reasons as claim 3, which are in addition to the reasons why claim 1 is not anticipated.

Regarding claim 7, the duty cycle limitations are nowhere disclosed or even possibly contemplated within the *Moore* reference and, therefore, there is no anticipation.

None of the claims are anticipated.

Applicant respectfully traverses the rejection of claims 8 and 10 based upon the proposed combination of *Moore* and *Dorenbosch, et al.* There is no motivation for

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making the combination and, therefore, no *prima facie* case of obviousness. The baud rate adjustment of the *Dorenbosch, et al.* reference has no use within the *Moore* reference and, therefore, there is no benefit for making the combination. Without any benefit, there is no motivation and the combination cannot be made.

The *Moore* reference is concerned with cell phone communications (see the beginning of column 1, for example). The only discussion of adjustments made in *Moore* is recalibrating the carrier frequency used by a portable communication unit. That is not the same as a baud rate. To change a baud rate as suggested by the *Dorenbosch, et al.* reference in the *Moore* reference has no relevance to the problem addressed by the teachings of the *Moore* reference.

Additionally, if one were to change the baud rate of a signal in a cell phone communication system, that would interrupt the ability of the system to properly facilitate communication. Baud rates used in cell phone communications are important for managing communications. If one were to add a baud rate modification from the *Dorenbosch, et al.* reference to the teachings of the *Moore* reference, Applicant respectfully submits that the *Moore* reference arrangement would cease to function as desired. Where a proposed combination defeats the intended operation of one of the references, there is no motivation and the combination cannot be made.

Further, to make the combination, one must consider what is actually being taught in the *Dorenbosch, et al.* reference. That reference teaches sending a third message using an adjusted baud rate based upon a signal quality level of a previously sent message. The signal quality level is an indication of a signal to interference measurement. This is

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described in column 3, lines 40-45 of the *Dorenbosch, et al.* reference along with column 4, lines 40-49.

The frequency recalibration of the *Moore* reference could not possibly benefit from the inclusion of what is taught in the *Dorenbosch, et al.* reference. There is no *prima facie* case of obviousness and the combination of *Moore* and *Dorenbosch, et al.* cannot be made.

Applicant respectfully traverses the rejection of claim 9 based upon the proposed combination of the *Moore* reference with *Kirchner, et al.* Again, there is no motivation for making the combination. The *Moore* reference simply recalibrates a carrier frequency to fit on an assigned channel. This has nothing to do with a "user definable baud rate" or a programmable timer that operates at a selected baud rate as taught by the *Kirchner, et al.* reference. The teachings of the *Kirchner, et al.* reference have no use for addressing the problem discussed in the *Moore* reference. That combination cannot be made and claim 9 cannot be considered obvious. The Examiner's only supposed motivation for making the combination to "allow a timer value is used to generate a baud rate for signal transmission," has no purpose when one looks at the teachings of the *Moore* reference. At best, the Examiner is using hindsight reasoning.

Applicant respectfully traverse the rejection of claims 11 and 20 based upon the proposed combination of the *Moore* reference, the *Kelly III* reference and the *Dorenbosch, et al.* reference. As discussed above, the *Moore* and *Dorenbosch, et al.* references cannot be combined. The addition of the *Kelly III* reference does not remedy that situation.

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Applicant respectfully submits that the *Kelly III* reference is non-analogous art. The Examiner contends that controlling a microprocessor performance is "the same field of endeavor." The *Moore* reference is not concerned with controlling a microprocessor performance, however. Instead, the *Moore* reference is only concerned with recalibrating a carrier frequency of a transmitter. One skilled in the art would not look to a tachometer reference (*Kelly III*) for deciding how to configure a cell phone system base station (*Moore*). The Examiner contends that the oscillator arrangement of *Kelly III* could be incorporated into the microprocessor 310 of the *Moore* reference. The microprocessor 310 referenced by the Examiner is part of the base station unit of the cell phone system of the *Moore* reference. Those skilled in the art who work on cell phone base stations are not concerned with what is taught in a reference about a vehicle tachometer.

Further, the Examiner's only supposed motivation for combining the *Moore* and *Kelly III* references is "the motivation for doing so would allow less space consuming and cost of parts." The Examiner does not explain how one taking an oscillator from one position on a circuit board and moving it to another position on a circuit board saves any space or cost. The *Moore* reference requires a crystal oscillator for precision timing to the DSP 310 (column 6, lines 49-51). If one were to move that crystal oscillator from outside of the microprocessor 320 to inside of the microprocessor 320, that same crystal oscillator is going to occupy just as much space. It will only be located in a different position. There is no space savings by moving a required component from one position to another.

Further, the *Kelly III* reference teaches a crystal oscillator 203 and capacitor 207 outside of the microprocessor in Figure 2, which are both required for operating the

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"oscillator" 1801 (Figure 18). As *Kelly III* requires an external crystal oscillator 203 and the *Moore* reference already includes a crystal oscillator in the base frequency reference 318, it is inconceivable how one would be motivated to substitute the arrangement of the *Kelly III* reference into the *Moore* reference. The change would be insignificant or redundant, at best. Therefore, there is no benefit to making the combination and no *prima facie* case of obviousness.

The further addition of the *Dorenbosch, et al.* reference cannot be made because, as discussed above, baud rate changes as taught by the *Dorenbosch, et al.* reference have no use or would destroy the operation of components in the *Moore* reference. Neither of claims 11 and 20 can possibly be considered obvious.

Applicant respectfully traverses the rejection of claims 12 and 13 as being unpatentable over the proposed combination of *Moore, Kelly III, Dorenbosch, et al.* and *Ralson, et al.* As discussed above, the first three references cannot be combined. *Ralson, et al.* cannot be added to this combination. There is no benefit for making the additional combination. Given that *Moore* and *Kelly III* already have sufficient oscillator components, adding the arrangement of *Ralson, et al.* only adds components and further complicates the arrangements, which is directly contrary to the Examiner's supposed motivation for making the combination between the *Moore* and *Kelly III* references.

Applicant respectfully traverses the rejection of claims 14-17 and 22 based upon the proposed combination of *Moore* and *Kelly III*. As discussed above, there is no motivation for making this combination. Without any motivation there is no *prima facie* case of obviousness.

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None of the claims are anticipated and none of them can be considered obvious.
The Examiner has failed to establish a *prima facie* case of obviousness against any claim.
This case is in condition for allowance.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 872-9306) on September 13, 2004.


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